

In re MICHELSON ET AL., Application No. 09/894,200  
Amendment A

### REMARKS

In response to the non-final Office action mailed March 14, 2005, please enter the amendments and consider remarks presented herein. Reconsideration and/or further prosecution of the application is respectfully requested. No new matter is added herein.

Applicants appreciate the thoughtful examination of the application, for providing column and line references. Applicants also appreciate the Office's initializing, signing and dating the 1449, and returning a copy of it to document that these references were fully considered by the Office.

Herein, Applicants amend independent claim 1 and add new claims 28-30 to depend from it. Applicants have canceled claims 2-27 without prejudice. Applicants have added new independent claim 31 with its dependent claims of 32-33. Applicants will hereinafter further address the claims in order of these claims sets.

All claims stand rejected under 35 USC § 102(b) as being anticipated by Chiussi et al., US Patent 5,689,500. For anticipation under 35 USC § 102, the reference *must teach each and every aspect of the claimed invention* either explicitly or impliedly, and the burden is on the Office to present a *prima facie* case of anticipation. MPEP § 706.02. Inherent means it *must* occur. The fact that a certain result or characteristic *may* occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. MPEP § 2112 (*emphasis in original*).

In terms of independent claim 1 and dependent claims 28-30, Applicants appreciate the Office's very broad interpretation of the claims 1 as set forth in the Office action, including the basic receiving and forwarding of ATM packets through the switch of Chiussi et al. Applicants did not intend to claim such a broad activity, and have amended claim 1 to more clearly recite the manipulation and forwarding of flow control information through a packet switching including a benes switching fabric with support provided at least by FIGs. 4A-D, which illustratively depict the manipulation and forwarding of flow control information in one embodiment, as well as the corresponding discussion of these figures on pages 16-19, and

In re MICHELSON ET AL., Application No. 09/894,200  
Amendment A

FIGs. 5A-8B and their corresponding discussion on pages 19-23, as well as limitations recited in some of the original filed claims. Support for new dependent claims 28-29 is provided at least by FIGs. 5A-B and their corresponding discussion, and support for new dependent claims 30 is provided at least by original claim 15, and FIG. 7B and its corresponding discussion.

As the Office relies on the distribution of packets, not the distribution of flow control information as recited in amended claim 1, and the prior art of record neither teaches such an apparatus for receiving and populating a flow control data structure in a first stage switching element and distributing throughout the packet switch in the recited manner in order to provide the input/output interfaces flow control information for use in performing flow control operations, independent claim 1 and its dependent claims of 28-30 are believed to be allowable.

Applicants have canceled claims 2-27 herein to free up claim fees for the new claims added herein, and expressly reserve the right to represent these and other claims in this application of a continuation thereof.

Applicants have added new independent claim 31 and its dependent claims of 32-34. Support for independent claim 31 is provided at least by that discussed in relation to the amendments to independent claim 1, as well as some elements of original claims 26-27. Support for dependent claims 32-34 is provided by that discussed in relation to dependent claims 28-30 (which these additional limitations directly correspond). Claims 31-34 are believed to be allowable for at least the reasons presented in relation to independent claim 1, especially and the prior art of record neither teaches such an apparatus for receiving and populating a flow control data structure in a first stage switching element and distributing throughout the packet switch in the recited manner in order to provide the input/output interfaces flow control information for use in performing flow control operations, independent claim 31 and its dependent claims of 32-34 are believed to be allowable.

In re MICHELSON ET AL., Application No. 09/894,200  
Amendment A

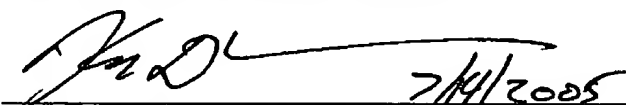
FINAL REMARKS. In view of the above remarks and for at least the reasons presented herein, all pending claims are believed to be allowable over the prior art of record, the application is considered in good and proper form for allowance, and the Office is respectfully requested to issue a timely Notice of allowance in this case. If, in the opinion of the Office, a telephone conference would expedite the prosecution of the subject application, the Office is invited to call the undersigned attorney.

Applicants believe that a one-month extension of time is required, and the requisite fee is submitted herewith. Additionally, the Commissioner is hereby generally authorized under 37 C.F.R. § 1.136(a)(3) to treat this communication or any future communication in this or any related application filed pursuant to 37 C.F.R. § 1.53 requiring an extension of time as incorporating a request therefore, and the Commissioner is hereby specifically authorized to charge Deposit Account No. 501430 for any fee that may be due in connection with such a request for an extension of time. Moreover, the Commissioner is hereby authorized to charge payment of any fee due any under 37 C.F.R. §§ 1.16 and § 1.17 associated with this communication or any future communication in this or any related application filed pursuant to 37 C.F.R. § 1.53 or credit any overpayment to Deposit Account No. 501430.

Respectfully submitted,  
The Law Office of Kirk D. Williams

Date: July 14, 2005

By



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